
ENGROSSED SUBSTITUTE HOUSE BILL 1539

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Technology, Energy & Communications
(originally sponsored by Representatives Linville, Roach, Morris,
DeBolt, Ericksen, Williams and Upthegrove)

READ FIRST TIME 02/21/05.

1 AN ACT Relating to failure to notify the one-number locator service
2 when excavating near a transmission pipeline; amending RCW 19.122.055,
3 19.122.070, and 19.122.020; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.122.055 and 2001 c 238 s 5 are each amended to read
6 as follows:

7 (1) Any person who fails to notify the one-number locator service
8 when required under this chapter and excavates within fifty feet of a
9 transmission pipeline is guilty of a gross misdemeanor. Any person who
10 fails to notify the one-number locator service and causes damage to a
11 hazardous liquid or gas pipeline is subject to ((a)) an additional
12 civil penalty of not more than ten thousand dollars for each violation.

13 (2) All fines and civil penalties recovered under this section
14 shall be deposited into the pipeline safety account created in RCW
15 81.88.050.

16 **Sec. 2.** RCW 19.122.070 and 1984 c 144 s 7 are each amended to read
17 as follows:

18 (1) Any person who violates any provision of this chapter not

1 amounting to a violation of RCW 19.122.055, and which violation results
2 in damage to underground facilities, is subject to a civil penalty of
3 not more than one thousand dollars for each violation. All penalties
4 recovered in such actions shall be deposited in the general fund.

5 (2) Any excavator who willfully or maliciously damages a field-
6 marked underground facility shall be liable for treble the costs
7 incurred in repairing or relocating the facility. In those cases in
8 which an excavator fails to notify known underground facility owners or
9 the one-number locator service, any damage to the underground facility
10 shall be deemed willful and malicious and shall be subject to treble
11 damages for costs incurred in repairing or relocating the facility.

12 (3) This chapter does not affect any civil remedies for personal
13 injury or for property damage, including that to underground
14 facilities, nor does this chapter create any new civil remedies for
15 such damage.

16 **Sec. 3.** RCW 19.122.020 and 2000 c 191 s 15 are each amended to
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter:

20 (1) "Business day" means any day other than Saturday, Sunday, or a
21 legal local, state, or federal holiday.

22 (2) "Damage" includes the substantial weakening of structural or
23 lateral support of an underground facility, penetration, impairment, or
24 destruction of any underground protective coating, housing, or other
25 protective device, or the severance, partial or complete, of any
26 underground facility to the extent that the project owner or the
27 affected utility owner determines that repairs are required.

28 (3) "Emergency" means any condition constituting a clear and
29 present danger to life or property, or a customer service outage.

30 (4) "Excavation" means any operation in which earth, rock, or other
31 material on or below the ground is moved or otherwise displaced by any
32 means, except the tilling of soil less than twelve inches in depth for
33 agricultural purposes, or road and ditch maintenance that does not
34 change the original road grade or ditch flowline.

35 (5) "Excavator" means any person who engages directly in
36 excavation.

1 (6) "Gas" means natural gas, flammable gas, or toxic or corrosive
2 gas.

3 (7) "Hazardous liquid" means: (a) Petroleum, petroleum products,
4 or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195
5 as in effect on March 1, 1998; and (b) carbon dioxide. The utilities
6 and transportation commission may by rule incorporate by reference
7 other substances designated as hazardous by the secretary of
8 transportation.

9 (8) "Identified facility" means any underground facility which is
10 indicated in the project plans as being located within the area of
11 proposed excavation.

12 (9) "Identified but unlocatable underground facility" means an
13 underground facility which has been identified but cannot be located
14 with reasonable accuracy.

15 (10) "Locatable underground facility" means an underground facility
16 which can be field-marked with reasonable accuracy.

17 (11) "Marking" means the use of stakes, paint, or other clearly
18 identifiable materials to show the field location of underground
19 facilities, in accordance with the current color code standard of the
20 American public works association. Markings shall include
21 identification letters indicating the specific type of the underground
22 facility.

23 (12) "Person" means an individual, partnership, franchise holder,
24 association, corporation, a state, a city, a county, or any subdivision
25 or instrumentality of a state, and its employees, agents, or legal
26 representatives.

27 (13) "Pipeline" or "pipeline system" means all or parts of a
28 pipeline facility through which hazardous liquid or gas moves in
29 transportation, including, but not limited to, line pipe, valves, and
30 other appurtenances connected to line pipe, pumping units, fabricated
31 assemblies associated with pumping units, metering and delivery
32 stations and fabricated assemblies therein, and breakout tanks.
33 "Pipeline" or "pipeline system" does not include process or transfer
34 pipelines as defined in RCW 81.88.010.

35 (14) "Pipeline company" means a person or entity constructing,
36 owning, or operating a pipeline for transporting hazardous liquid or
37 gas. A pipeline company does not include: (a) Distribution systems

1 owned and operated under franchise for the sale, delivery, or
2 distribution of natural gas at retail; or (b) excavation contractors or
3 other contractors that contract with a pipeline company.

4 (15) "Reasonable accuracy" means location within twenty-four inches
5 of the outside dimensions of both sides of an underground facility.

6 (16) "Transmission pipeline" means a pipeline that transports
7 hazardous liquid or gas within a storage field, or transports hazardous
8 liquid or gas from an interstate pipeline or storage facility to a
9 distribution main or a large volume hazardous liquid or gas user, or
10 operates at a hoop stress of twenty percent or more of the specified
11 minimum yield strength.

12 (17) "Underground facility" means any item buried or placed below
13 ground for use in connection with the storage or conveyance of water,
14 sewage, electronic, telephonic or telegraphic communications,
15 cablevision, electric energy, petroleum products, gas, gaseous vapors,
16 hazardous liquids, or other substances and including but not limited to
17 pipes, sewers, conduits, cables, valves, lines, wires, manholes,
18 attachments, and those parts of poles or anchors below ground. This
19 definition does not include pipelines as defined in subsection (13) of
20 this section, but does include distribution systems owned and operated
21 under franchise for the sale, delivery, or distribution of natural gas
22 at retail.

23 ((+17)) (18) "One-number locator service" means a service through
24 which a person can notify utilities and request field-marking of
25 underground facilities.

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